

**Puerto Rico Department of Education
Request for Limited Waiver**

Exhibit I

PRDE submission to USAC (dated October 2, 2014)



ESTADO LIBRE ASOCIADO DE
PUERTO RICO
DEPARTAMENTO DE EDUCACIÓN
CENTRO DE CÓMPUTOS

FY2014 Selective Review Information Request (SRIR)

October 2, 2014

Sent via E-mail to: dhara.patel@sl.universalservice.org

Dhara Patel
Associate Manager, Selective Reviewer
FCC Form 471 Application Number(s): 988131, 990161
Response Due Date: 10/03/2014

Subject: Funding Year 2014 E-Rate Selective Review

Dear Ms. Patel:

Please find our response below and the corresponding attachments within the following link:

<https://www.dropbox.com/sh/iteyts2hhvd2jxz/AADN5mvfTYwFmtw1wReXqMtva?dl=0>

I. Application# 990161- FRN 2702074

Based on the documentation you provided during the Selective Review, FCC Form 471 Application #990161, FRN 2702074 will be denied because you did not fairly evaluate bidders based on the cost of eligible services.

When evaluating the price of each proposal, it appears that you were comparing the total cost of the proposals including the cost for ineligible locations and not just the cost for the eligible locations. FCC rules require applicants to carefully consider all bid solutions and chose the most cost effective solution with price of the eligible products and services being the highest weighted factor in the bid evaluation process. The cost for the ineligible entities can be included in the bid evaluation matrix as long as it is a separate factor and is not included with the eligible portion of the products and services as the primary factor. Because you included the cost for ineligible entities in your evaluation of the price of each proposal, funding will be denied.

Applicants must select the most cost-effective provider of the desired products or services eligible for support, with price of the eligible goods and services being the primary evaluating factor. For additional guidance on vendor selection, please refer to the USAC website at <http://www.usac.org/sl/applicants/step03/evaluation.aspx>

If you disagree with our determination and you have alternative information, please provide the supporting documentation.

*We **disagree** with this determination and present the following documentation to support that we DID fairly evaluate bidders based on the cost of eligible services for only eligible locations.*

*While we did fairly evaluate bidders based on the cost of eligible services throughout the bidding process, we also committed a **ministerial error** by inadvertently copying and pasting the total costs (eligible sites + ineligible sites) into our final Evaluation Matrix instead of the correct subtotals for eligible sites only. The vendor ranking remains the same, which further masked the error.*

As PRDE has many entities that do not yet comply with SLD's "E-Rate Readiness" criteria, and are therefore not eligible for funding, the Department is acutely sensitive and cautious about isolating these ineligible entities from consideration. ALL documents – evaluation committee E-Rate training, evaluation committee agreements, RFP, vendor proposals, evaluation committee meeting minutes, contracts – consistently reflect the separation of eligible entities from ineligible entities throughout the entire procurement process.

This was a complex procurement process with many documents, and unfortunately included a human error that was not noticed by any of the participants until now brought to our attention. However, the following documentation will clearly illustrate that ALL intentions and efforts were consistently conducted with the price of eligible products and services for eligible entities being the highest weighted factor in the bid evaluation process.

Please reference the following documents located in the Dropbox link provided.

FY2014 Eval Committee ERate Overview 12.17.13 .docx

FY2014 E-RATE EVALUATION COMMITTEE MEMBER TRAINING, December 19, 2013, E-RATE OVERVIEW, page 4, Vendor Selection:

Pricing of eligible products and services must be given the greatest weight and be the primary factor considered in selecting vendors.

E-Rate Evaluation Committee Member Agreements

E-Rate Evaluation Committee Member Agreements enumerate (item 8) that price of eligible services will be given greatest weight when voting on vendor proposals. Each committee member agreed with these requirements:

- Lourdes Diaz, PRDE Technology and Curriculum Unit, Voting Member
- Vilmarys Quiñones, PRDE Legal Division, Voting Member
- Norma Rolón, PRDE Procurement, Voting Member

The RFP (FY2014 RFP WAN-INTERNET-OSIATD-2014-001 FINAL.pdf)

- Page 44 stipulated the Evaluation Criteria to include: **PRICE OF ELIGIBLE PRODUCTS AND SERVICES** weighted at 35%, the most heavily weighted factor of the criteria
- Pages 106-107 required vendors to submit proposal pricing for eligible entities and ineligible entities separately so that eligible entities pricing could be clearly isolated and evaluated separately

Vendor Proposals

Vendors complied with the proposal requirements, isolating costs for eligible entities and ineligible entities:

- **PRT_FY2014_wan_price-proposal.pdf**
- **ATT_FY2014_WAN_INTERNET_finalpricing_v2 3-18-14.pdf**

Evaluation Committee Meeting Minutes

Evaluation Committee Meeting Minutes FY2014_Evaluation-Committee-Meeting-Minutes_2-20-14.pdf confirm:

- Members carefully reviewed the evaluation criteria, in particular noting that the price of eligible services is the most heavily weighted – see paragraph 3.A. of page 2
- Additional detail of **PRICE OF ELIGIBLE PRODUCTS AND SERVICES** criterion on page 6 states “Side-by-side comparison of Vendor Pricing for **ELIGIBLE** Products and Services”

Vendor Contract

FY2014_E-RATE CONTRACT_Telco_WAN Internet_PRT_03 25 14_FINAL_SIGNED.pdf stipulates on page 17, in paragraphs:

- 9.4 – the Department will be responsible for non-discounted portion of E-Rate eligible services and the cost of ineligible services
- 9.5 – the vendor shall bill separately for E-Rate eligible services vs. ineligible services.

FY2014_PRTC_telco-wan-internet_amendmentA_6 30 14.pdf summarizes contract amounts on page 2 isolating eligible entity amounts from ineligible entity amounts.

The resulting decision is the same, favoring PRT, when correct figures are pasted into the matrix:

- For the WAN WORKSHEET
- For the WAN VOTE

RFP NO: WAN/INTERNET-OSIATD-2014-001				
RATING: 10 POSSIBLE POINTS FOR EACH CATEGORY				
3/20/14				
1 PRICE OF ELIGIBLE PRODUCTS AND SERVICES (35%)				
	INFORMATION CONSIDERED	AVAIL PTS	AT&T	PRTC
1	4-YEAR PRICE TOTAL FOR ELIGIBLE PRODUCTS & SERVICES (INCLUDING MARKET RESEARCH OR RECURRING PRICING)	10	4	6
	TOTAL RATING:	10	6	7

WIDE AREA NETWORK (WAN) PRICING EVALUATION SCALE	RANGE	POINTS
PROPOSED PRICING RANGE FOR 4-YEAR TOTAL**	\$10M - \$19M	10
	\$20M - \$24M	9
	\$25M - \$29M	8
PRT 4 YR TOTAL - \$30,255,456.00	\$30M - \$34M	7
AT&T 4 YR TOTAL - \$39,792,551.29	\$35M - \$39M	6
	\$40M - \$44M	5
	\$45M - \$49M	4
	\$50M - \$54M	3
	\$55M - \$59M	2
	\$60M+	1

PRDE FY2014 E-RATE VENDOR EVALUATION MATRIX					
RATING: 1-10 (10 is the highest/best)					
Members Should Complete Column D & F (Score Column E & G will Auto-Populate)					
WAN/INTERNET-OSIATD-2014-001					
WIDE AREA NETWORK (WAN)					
CRITERIA	WEIGHT	AT&T		PRTC	
		RATING	SCORE	RATING	SCORE
1 PRICE OF ELIGIBLE PRODUCTS AND SERVICES	35%	6	21%	7	25%
2 PROFESSIONAL QUALIFICATIONS AND EXPERIENCE PROVIDING PROPOSED SERVICES	20%	8	16%	10	20%
3 RESPONSIVENESS OF PROPOSAL TO RFP TERMS, CONDITIONS AND REQUIRED SUBMITTALS, AND QUALITY OF PROPOSED SOLUTIONS AND PRODUCTS	15%	6	9%	10	15%
4 QUALITY OF PROPOSED SERVICE LEVEL AGREEMENT (SLA)	15%	10	15%	8	12%
5 E-RATE PROGRAM KNOWLEDGE AND EXPERIENCE	10%	8	8%	5	5%
6 PERFORMANCE ON CONTRACTS WITH COMPARABLE SCOPES OF SERVICES FOR BUSINESSES AND ORGANIZATIONS OTHER THAN PRDE	5%	10	5%	9	5%
	100%	48	74%	49	81%

Selective Review Response
Page 5 of 5
Response due: 10/03/2014

As always, please do not hesitate to contact me if you have any additional questions, or if you need further clarification on the Department's response.

Thank you for your continued support.

Sincerely,

A handwritten signature in blue ink, appearing to read 'mpico'.

Maribel Picó, CIO
PRDE